

**MINUTES OF THE IN-PERSON AND
VIRTUAL MEETING FOR THE
NORTH CAROLINA ALARM SYSTEMS LICENSING BOARD**

DATE: November 19, 2020

TIME: 11:00 A.M.

PLACE: 3101 Industrial Drive Ste. 104
Raleigh, North Carolina 27609

SUBMITTED BY: Paul Sherwin, Director

MEMBERS PRESENT:

Wayne Woodard

Jim Crabtree

Stephen Wheeler

Larry Proctor

Mack Donaldson

MEMBERS PRESENT VIRTUALLY:

Caroline Brown

Robert Wike Graham

STAFF PRESENT:

Director Paul Sherwin

Attorney Jeff Gray

STAFF PRESENT VIRTUALLY:

Deputy Director Amanda Rolle

Board Secretary Cynthia Anthony

Field Services Supervisor Kim Odom

Investigator Nick Ezell

VISITORS PRESENT VIRTUALLY:

Sean Hatcher

Duncan Hubbard

David Sperber

Diane Noble

Kevin Parrish

Joe Laughter

On November 19, 2020, at 11:00 A.M., Chairman Woodard called the telephone conference meeting of the North Carolina Alarm Systems Licensing Board to order.

Attorney Gray read the following statement:

"In accordance with the State Ethics Law, it is the duty of every Board member to avoid both conflicts of interest and appearances of conflict. If any member has any known conflict of interest or appearance of conflict with respect to any matter coming before this Board today, please identify the conflict or appearance and refrain from the deliberation and vote in that matter."

Chairman Woodard introduced the Board members and staff and then welcomed all guests.

JIM CRABTREE MADE A MOTION TO APPROVE THE SEPTEMBER 17, 2020 BOARD MEETING MINUTES. SECONDED BY LARRY PROCTOR. MOTION CARRIED ON A ROLL CALL VOTE.

Mack Donaldson presented the Grievance Committee report. Mack Donaldson and Wayne Woodard met in person and virtually as the Grievance Committee on November 18, 2020, from 12:00 P.M. to 3:15 P.M. and heard a total of ten cases.

JIM CRABTREE MADE A MOTION TO APPROVE THE GRIEVANCE COMMITTEE REPORT AS PRESENTED. SECONDED BY LARRY PROCTOR. MOTION CARRIED ON A ROLL CALL VOTE.

Stephen Wheeler presented the Screening Committee report. Mr. Wheeler served as chair of the Screening Committee, and they met in-person and virtually on November 19, 2020, from 9:00 A.M. to 10:58 A.M. to review a total of eighteen applications.

LARRY PROCTOR MADE A MOTION TO APPROVE THE SCREENING COMMITTEE REPORT AS PRESENTED. SECONDED BY JIM CRABTREE. MOTION CARRIED ON A ROLL CALL VOTE.

Stephen Wheeler stated that after a lengthy discussion regarding the request from industry member, Nathan McClellan, concerning the removal of the NC electrical license requirement, the Board has decided to keep this requirement. As technology continues to change, this requirement may be addressed in the near future.

FINAL AGENCY DECISIONS

None.

SPECIAL REPORTS AND PRESENTATIONS

None.

OLD BUSINESS

After an extensive discussion concerning former House Bill 630, Chairman Woodard requested Stephen Wheeler, Caroline Brown, Attorney Jeff Gray, and himself meet and review acceptable wording to recommend to the Board that addresses the Google's concerns.

Also, Chairman Woodard requested that Attorney Gray set up a meeting with Google's lobbyist.

NEW BUSINESS

None.

DIRECTOR'S REPORT

Director Sherwin advised that the Board's fund balance was \$618,491.33 as of October 31, 2020. The Education Fund balance was \$68,173.88. As of October 31, 2020, the Board had 1,010 licensees and 7,173 registrants.

Director Sherwin reported that Private Protective Services staff continues to work mostly from home, due to COVID-19 restrictions. However, effective Monday, September 28, 2020, the office was opened to the public Monday through Friday from approximately 7:30 A.M. to 4:30 P.M. He added that the number of staff members present in the office each day, is kept to a minimum.

Director Sherwin announced the recent hiring of Yasmine Pinchback through the State's temporary staffing firm. Ms. Pinchback will manage the front-desk duties to include assisting walk-in customers, process fingerprint result processing, and sort mail.

Director Sherwin announced that Private Protective Services currently has four vacant positions:

- Hickory-based Investigator
- Administrative Assistant
- Registration Processor (2)

JIM CRABTREE MADE A MOTION TO ACCEPT THE DIRECTOR'S REPORT AS PRESENTED. SECONDED BY LARRY PROCTOR. MOTION CARRIED ON A ROLL CALL VOTE.

ATTORNEY'S REPORT

I. CONSENT AGREEMENTS & CIVIL PENALTIES

On July 16, 2020, William Michael Hubbard and Siemens Industry, Inc., Security Division entered into a Consent Agreement in the amount of \$367.20 for two registration violations. The Q/A signed the agreement on August 5, 2020. (PAID IN FULL)

On July 16, 2020, John William Morrow and Telecommunications, Inc. entered into a Consent Agreement in the amount of \$2,182.80 for 11 registration violations. It was agreed the Consent Agreement could be paid in three equal instalments beginning in July 2020. The Q/A signed the agreement on August 5, 2020. (PAID IN FULL)

On September 17, 2020, David Pasternak and Lan-Line Systems, Inc entered into a Consent Agreement of \$1,551.25 for unlicensed activity. The Q/A signed the agreement on September 17, 2020. (PAID IN FULL)

On September 17, 2020, Christopher Hudson and Connected Home Inc entered into a Consent Agreement of \$1,423.75 for unlicensed activity. The Q/A signed the agreement on October 5, 2020. (PAID IN FULL)

On September 17, 2020, Mark Lewis and Southern Sound Inc. entered into a Consent Agreement of \$1,168.75 for unlicensed activity. The Q/A signed the agreement on October 12, 2020. (PAID IN FULL)

II. OFFICE OF ADMINISTRATIVE HEARINGS

The hearing list was attached to the Attorney's Report.

III. RULES

- a. At its September 19, 2018, meeting, the Board, following a request from staff, instructed Attorney Gray to prepare amendments to the Board's administrative rules to allow an applicant for a license or registration the option to submit fingerprints electronically. The request resulted in an amendment to 14B NCAC 17 .0201 and .0301. A copy of those amendments was attached to Attorney Gray's November 21, 2019, Attorney's Report and was approved by the Board.

The Notice of Text for these two rules, along with the amendment to .0204, was filed on January 8, 2020, and the Public Hearing was Tuesday, March 31, 2020, at 2:00 P.M. at the Board's office and there were no comments, written or oral.

Also, at its September 19, 2019, meeting, the Board asked Attorney Gray to review options to allow an entity whose license has lapsed to have its license reinstated. The only practical and legal method would be to amend the Board's administrative rules. The Private Protective Services Board has such a rule. Attorney Gray made the requested amendment by adding a sub-section in 14B NCAC 17 .0204 which was also attached to his November 21, 2019, Attorney's Report and approved.

The Notice of Text was filed along with the two rules above, and the Public Hearing was the same day and same time.

The Public Comment Period for all three rule amendments ended Friday, April 3, 2020. These rule amendments, with no changes, were adopted at the Board's May 24, 2020, meeting and were then filed to be considered by the Rules Review Commission. Some minor Requests for Technical Change and a Staff Objection were received. Former Board Legal Counsel, Charles McDarris, and Attorney Gray responded to these, and the

Commission approved these three rule amendments at its meeting on July 16, 2020. A copy was attached to Attorney Gray's September Attorney's Report.

- b. At its May 2020 meeting, the Board voted to amend its administrative rules to accommodate applicants for licensure during a declared state of emergency. To address the current COVID-19 pandemic, the Board chose to do so using the Emergency rulemaking process. Prior to the passage of Senate Bill 704 (*see*, subsection g. under LEGISLATION in Attorney Gray's September Attorney's Report), a State agency was required to simultaneously begin the Temporary rulemaking process upon adopting Emergency rules. Although this requirement was temporarily suspended by SB 704, the Board chose to make this rule amendment permanent.

A copy of the Board's Emergency rule amendment to 14B NCAC 17 .0201 was attached to Attorney Gray's July 16, 2020, Attorney's Report. This Emergency rule was effective June 9, 2020 and was published in the North Carolina Register on July 1, 2020.

At its July 16, 2020, meeting the Board voted to adopt this Emergency rule amendment as a Temporary rule.

Since it also amended .0201, this temporary rule amendment was approved by the Rules Review Commission at its August meeting along with the three rule amendments in a., above (so, therefore, was included in the attachment to Attorney Gray's September Attorney's Report.) The effective date for this Temporary rule amendment was August 28, 2020.

- c. Also, at its July 2020, meeting the Board voted to add one additional course, Complete Electrical Academy's Level I course, to the minimum training requirement for licensure in 14B NCAC 17 .0202(a)(3). It also voted to repeal the Board oral or written examination requirement in .0202(a)(2) since the Board has not administered such an exam in many years. (Note: This repeal created a renumbering of subsection (a) so the course requirement subsection is now "(a)(2).") The Notice of Text was filed on August 7, 2020. The Public Hearing for this rule amendment was Tuesday, October 6, 2020, at 2:00 P.M. at the Board's office, virtually. The Public Comment Period ended on November 2, 2020. No public comment, written or oral, was received.

A vote to approve this rule amendment is in order today. A copy was attached as Attachment 2 of Attorney Gray's Attorney's Report.

IV. LEGISLATION

The legislature tasked the General Statutes Commission with studying crimes created by administrative rule or ordinance. Some months ago, Attorney Gray prepared a memorandum to the Commission setting forth which rules the Board might possibly charge as a crime.

Then, in early August Attorney Gray received a request for a response to an actual proposal to eliminate the language in NC. Gen. Stat. § 74D-11(b) regarding "violating any rule promulgated to implement this statute." Since the Board has never charged anyone criminally with violating its rules -- and has rarely charged a violation of its statutes -- Attorney Gray was not concerned.

Albeit, as government studies often go, the focus of the Commission abruptly expanded.

Attorney Gray received an e-mail on September 18, 2020, advising him that they were now considering eliminating the ability of all boards and commissions to assess a civil penalty such as a fine. Attorney Gray immediately responded, vehemently opposing this proposal and requested the opportunity to address the Commission at its meeting on Friday, October 2, 2020.

Attorney Gray did so, and the essence of his comments to the Commission can be found in his initial e-mail response to staff attached as Attachment 3 of his Attorney's Report. Also attached is a copy of the Commission's proposed draft bill.

It is Attorney Gray's understanding that the Commission has dropped this latter idea.

JIM CRABTREE MADE A MOTION TO APPROVE THE RULE AMENDMENT CHANGE TO 14B NCAC 17.0202 (a)(2) AS PRESENTED. SECONDED BY MACK DONALDSON. MOTION CARRIED ON A ROLL CALL VOTE.

JIM CRABTREE MADE A MOTION TO ACCEPT THE ATTORNEY'S REPORT AS PRESENTED. SECONDED BY LARRY PROCTOR. MOTION CARRIED ON A ROLL CALL VOTE.

GOOD OF THE ORDER.

LARRY PROCTOR MADE A MOTION TO ADJOURN. SECONDED BY JIM CRABTREE. MOTION CARRIED ON A ROLL CALL VOTE.

Meeting Adjourned: 12:46 P.M.

Paul Sherwin

Director

Cynthia Anthony

Reporter